

# My Body, the Majority's Choice? A Comparative Overview of Abortion Laws in Ireland and Argentina

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Women in Argentina celebrated a landmark achievement in June 2018 that they believed would pave the way for the legalization of abortion on request in the country. A majority of the Chamber of Deputies approved a [bill](#) that would permit abortions on request during the first 14 weeks of pregnancy and increase the scope for legal abortions after the 15<sup>th</sup> week.

However, on August 8<sup>th</sup>, the bill was [rejected](#) by the Senate. This was a great disappointment for Argentinian women – and those all around the world who had supported the movement – and represented an unfortunate backward step, since the [current law](#), enacted in 1921, will be retained and abortion will remain a crime.

This happened a few months after the historical referendum in Ireland, in which a majority of the population voted in favor of abolishing the Eighth Amendment to the Constitution, which gave equal legal status to the life of the fetus and that of the woman carrying it and prohibited abortion in almost all cases. If the new law is approved as written in the [draft](#), abortion on request will be legal until the 12<sup>th</sup> week of pregnancy.

Argentina and Ireland are both strongly influenced by the Christian Church, which is a key factor when it comes to reproductive rights. In fact, according to the Constitution, Argentina's government [supports](#) the Roman Catholic Apostolic Church.

Abortion is a very serious public health issue and, when not carried out properly, leads to death or severe injury to [many women every year](#). However, it is criminalized in most countries, usually with certain exemptions, such as when the woman's life is in danger. In Argentina and Ireland, there is a social movement seeking to change this situation and make abortion legal, and the matter has finally been placed on the legislative agenda.

Argentina's [legislation](#) concerning abortion is very restrictive. Abortion is illegal, with two exceptions: if the pregnant woman's life or health is in danger; and if the pregnancy is the result of the rape of a mentally disabled woman. Prohibition, of course, leads to clandestine and unsafe abortions. Approximately [500,000](#) abortions

take place every year in the country, which represents around 40 per cent of all pregnancies.

The legalization of abortion has been a [demand](#) of [feminist movements](#) in Argentina for years and, since 2005, there have been [six](#) law projects seeking to change abortion laws. The [seventh](#) project was presented to the Chamber of Deputies on March 6<sup>th</sup> and was the subject of great debate before being approved by 129 deputies, with 125 voting against it.

The project's approval by the Deputies was a significant victory for women and led to great optimism about the vote in the Senate. It also gave feminist and social movements in Latin America hope that it might have an impact on other countries, considering that most nations in the region also have restrictive laws on abortion.

However, to the great disappointment of many people, the bill was [rejected](#) by 38 [senators](#) (14 women and 24 men), influenced by [pressure](#) from the Catholic and Evangelical Churches, with 31 voting in favor of it (14 women and 17 men).

The Senate is composed by 72 representatives from the districts. 25 are president's allies and 17 of them [voted](#) against the bill (the president [himself](#) does not agree with it, but supported the debate and declared that he would ratify the law if it was approved in the Senate). The [majority](#) is formed by men between 41 and 60 years old. It is [considered](#) conservative, despite having representatives from different backgrounds and political orientations.

A [referendum](#) was suggested, but rejected straightaway. Apparently, the legalization of abortion has a great deal of [support](#) in society, but [polls](#) show that there is such an even [split](#) between those in favor and those against that it is not possible to know what would happen if such a referendum took place. It is interesting to note that support for the change is a little [higher](#) among men (55,6% ) than women (51,6%).

Despite the rejection by the senators, this discussion is not over, since the Argentinian government is preparing a [reform](#) of the Criminal Code, including on abortion. The draft makes abortion legal when it is the result of rape (as mentioned before, it is currently only permitted when the rape victim is mentally disabled) and gives judges the possibility not to punish women who have had an abortion. This reform proposal will be [presented](#) by the Executive branch and discussed in the Senate.

## A victory for women

In Ireland, the method used to make changes to the abortion legal framework was different. The [Constitution](#) expressly guarantees the right to life of the unborn, just as much as the right to life of the mother, following the [Eighth Amendment](#) of the

Constitution Act, and it prohibits abortion in any case except where the woman's life is at risk.

Like in Argentina, despite the legal prohibition, Irish women continue to have abortions. Some of them go to other countries for the purpose, especially England and Wales, where, in 2016, there were [4,810](#) abortions involving non-resident women, 68% of whom were from the Republic of Ireland.

Considering this situation, the [Citizen's Assembly](#) discussed this topic in 2017 and the majority [recommended](#) that the termination of pregnancy should be lawful without restrictions at least in the early stages, along with abortions in the case of rape and significant fetal abnormality.

The recommendations were presented to Parliament and considered by its members. Since any change in abortion legislation would mean a constitutional alteration, a referendum was required, in accordance with the [Constitution](#). After the Bill [cleared](#) all the stages in Parliament, the referendum took place in May and a majority of the Irish population [voted](#) to overturn the abortion ban. It is now necessary for Parliament to debate and approve the legislative text that will properly regulate the termination of pregnancy.

According to the [draft](#) of the future law, abortions on request will be permitted until the 12th week of pregnancy and after a 72-hour waiting period. It also provides for legal abortions without time restrictions in the case of risk to life or health of the woman involved and conditions likely to lead to death of the fetus. There is no specific mention of pregnancy as a result of rape, which means that rape victims who do not want to keep the child will have to follow the 12-week rule.

The draft also does not mention the costs of these abortions, so it is not clear if the expenses will be covered by the public health system. Moreover, the government will need to take all the necessary implementation measures, such as providing more professionals, equipment, etc. Even though the process is not over, the result of the referendum was an extremely important victory for Irish women.

We can see that both Argentina and Ireland have tried to move forward in the fight for the decriminalization of abortion. In Argentina, even though the approval in the Chamber of Deputies represented a very important step, the Senate majority followed the religious standards and rejected the bill, keeping the current law that criminalizes abortion. The legalization of abortion had (and still has) a lot of support among the general population, but, unfortunately, not enough in the Senate.

Over the coming weeks, the proposal for reform of the Criminal Code in Argentina will be presented and discussed, which may or may not lead to some changes in the abortion law. Women and social movements will certainly keep up with the legislative activities.

In Ireland, the referendum result was a victory for women. The next step is to enact the new law and, of equal importance, to create all the practical conditions to implement the new rules.

People from both countries have been [affirming](#) – directly in Ireland and indirectly in Argentina – that legislature must be allowed to make complex social policy choices in this area. Ireland was successful and hopefully this will have a knock-on effect in countries that still forbid termination of pregnancies on request, such as Northern Ireland. For now, Argentina's case keeps the country in the same situation as many places in South America, but we need to pay attention to upcoming events to see if the congressional representatives will be able to listen to the voice of women and make the desired changes towards abortion legislation.

